

# ATRA Supports HB 2376

## *Eliminating a retroactive tax increase*

On June 1, 2001, Arizona's state sales tax rate climbs from the current 5% to 5.6% as a result of the passage of Proposition 301 last November. While Prop. 301 addressed in detail how the roughly \$445 million in new revenue would be spent, it failed to grandfather, at the current rate, contracts and transactions in effect prior to June 1.

Grandfathering pre-existing contracts and transactions when sales tax rates are increased has become common practice in Arizona at the city and county level.

Last session, as the Education 2000 legislation was being prepared for debate in the House of Representatives, then Ways and Means Committee Chairman Bill McGibbon attempted to add language to ensure that the new sales tax would not apply retroactively. Representative McGibbon was told amendments would not be allowed on the floor and assurances were given that the problem would be addressed during the 2001 legislative session.

Early this year, several business groups united behind the effort to ensure that Prop. 301's sales tax increase would only be applied prospectively. The East Valley Chambers of Commerce, Arizona Association of General Contractors, National Federation of Independent Business, and others have joined ATRA in supporting legislation dealing with this issue.

Prior to the session, most viewed passage of the grandfathering legislation as a technical cleanup issue that would receive quick legislative approval. Several issues have surfaced to prove those predictions overly optimistic.

First, while this is a simple issue to understand for businesses that **remit** sales taxes to the state, it is not as simple for those that **pay** sales taxes. Customers know they will pay the current 5% sales tax on all transactions until June 1. However, the actual payments made on some transactions that occur prior to June 1 will not be made until **after** that date. For those businesses that remit sales taxes to the state on a cash basis (when the money is received), they will owe the higher sales tax if the money is received after June 1 regardless of when the transaction occurred.

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**“An honorable government would not take taxes to which it is not entitled.”**  
*Representative Steve May*

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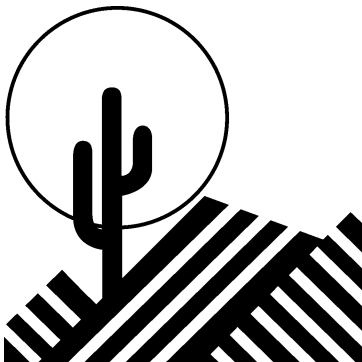
Second, and most importantly, the Governor's office has strongly opposed ATRA's efforts to resolve the problem.

Labeling it another “alt-fuels debacle,” the Governor's staff has created the specter of a rush of long term contracts being entered into prior to June 1 in order to avoid paying the increased sales tax. Worse, they have further confused the issue by suggesting that businesses were attempting to side step a liability that is actually owed.

ATRA has responded to some of the Governor's concerns by adding two amendments that narrow the transactions that would be grandfathered at the existing sales tax rate. First, contracts entered into prior to June 1 that provide for a pass through of the increased sales tax would be required to do so. Second, transactions and contracts grandfathered at the existing rate would be provided that protection until only December 31, 2001. After December 31, 2001, all sales tax payments, regardless of the date of contract, would be required to pay the higher rate.

The legislation has consistently received bipartisan support throughout the session. HB 2376 passed the Senate 25 to 2 and the House 41 to 15.

In explanation on the House floor that the bill simply ensured that taxpayers would only pay those taxes that are legally owed to the state, Representative May appropriately noted, “An honorable government would not take taxes to which it is not entitled.”



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